REMARKS

1. Drawings

Applicant submits herewith replacement Figs. 1a and 8 in response to the Examiner's remarks in paragraph 1 of the Office Action dated April 18, 2007.

2. Specification

Applicant encloses a replacement copy of the specification in response to the Examiner's remarks in paragraph 2 of the above-referenced Office Action.

3. Claim Objectives

Applicant has amended claims 1, 14, 15 and 19 in response to the Examiner's remarks in paragraph 3 of the above-referenced Office Action.

4. Further Amendments

Applicant has also made several formal amendments. These relate to the insertion of the U.S.-specific intermediate headlines and the abbreviations on pages 9, 10, 11 and 12 of the specification. In the pending claims, Applicant has deleted the means plus function wording and the reference numbers.

Additionally, Applicant revised Claim 19, to bring same into a fully method-like style.

5. Claim Rejections 35 USC 101

Applicant has amended Claims 21 and 22 to recite statutory subject matter in response to the Examiner's rejection at paragraph 5 of the above referenced Office Action.

6. Claim Rejections 35 USC 103

Regarding the Examiner's prior art rejection at paragraph 6 of the Office Action, which is directed against Claims 17 and 20, Applicant respectfully submits that, this rejection is not justified. The Examiner is referred to page 6, lines 27 to 32 and particularly, to lines 30 to 32. Here it is outlined that in the prior art encoder, as shown in Fig. 8, the quantized spectral values are arranged on a bit-wise basis, such that the bits of equal orders of the quantized spectral values are arranged <u>in one column</u>. In block 86, scaling layers are formed, <u>with one scaling layer corresponding to a column</u>.

This means that the first scaling layer includes the most significant bits of all quantized spectral values. The second scaling layer includes the next-order bits of all quantized values. The bits of the second scaling layer have a significance or order which is one less than the highest order, *i.e.* the order of the most significant bits.

Analogously, the third scaling layer has all bits at the third order, which is two orders lower than the order of the most significant bit, but from <u>all</u> quantized values as generated by quantizer 82.

Importantly, each scaling layer, therefore, includes bits from <u>different</u> orders.

However, Claim 17 includes the following limitation:

"...the first sub-scaling layer comprising bits of a certain order of the first number of binary spectral values in a band,..."

Importantly, Claim 17 has the following limitation:

"...with the second sub-scaling layer comprising bits of the certain order of the second number of binary spectral values in the band,..."

Thus, Claim 17 clearly defines that both sub-scaling layers have bits of <u>the same</u> certain order, which is clearly indicated by the definite article "the" before the term "certain order".

In the AAPA, the scaling layers as formed by block 86 of Fig. 8, however, all have bits of different orders. Thus, all bits in the second scaling layer have an order, which is different from all the bits of the first scaling layer.

Claim 17, furthermore, includes the following limitation:

"...and with the second number comprising at least one spectral value not contained in the first number,..."

This means that, in a certain frequency band, there is a certain number of binary spectral values, and the first sub-scaling layer has the first number of binary spectral values and the second subscaling layer has a second number of binary values, and there is at least one binary value, which is included in the first sub-scaling layer, but which is not included in the second sub-scaling layer or vice versa.

However, as becomes clear from page 6, lines 28 to 30 of the annotated copy (AAPA), each scaling layer as generated by block 86 has binary values from all binary spectral values in a band, so that a scaling layer does not have bits form a binary spectral value, which is not included in any other scaling layer. Instead, the scaling layers are, with respect to the binary spectral values, fully overlapping. Thus, the Examiner is not correct when saying that AAPA's Figs. 8 and 9 have all features from the first two paragraphs of Claim 17 apart from "sub-scaling layers", because these sub-scaling layers are completely different from AAPA's disclosed scaling layers.

Furthermore, the Examiner is not correct when saying that AAPA discloses the means for processing because, when one processes the first scaling layer, one determines bits of a first certain order and, when one processes the second scaling layer, one determines bits of a second order of the binary quantized spectral values. As outlined above, this second order is different from the second order in AAPA.

This is not the case in the claimed invention because processing both sub-scaling layers results in the bits from one and the same order, which is "the certain order," as defined in Claim 17. Again, this is made clear by the definite article "the," which refers in the last paragraph of Claim 17 back to the first paragraph of Claim 17, in which "the" certain order is clearly defined different from AAPA's first scaling layer and second scaling layer.

Thus, Claim 17 does not only receive that a scaling layer includes any sub-scaling layers, but it clearly defines these sub-scaling layers in a specific manner and says that by processing both sub-scaling layers, one determines the bits of one and the same certain order of the binary quantized spectral values in the band.

US patent 6,853,650 B1, in column 3, lines 59 to 62, discloses the following:

"...so that it can respond by controlling the number of data layers generated by the encoder and/or by performing a subdivision of a data layer into a plurality of sub-scaling layers."

Firstly, this reference only teaches to sub-scaling layers in the context of an <u>en</u>coder, which the Examiner obviously acknowledges, as stated in the penultimate line of page 5, where the Examiner writes that the first terminal has the encoder and is connected to the first network.

Hutzelmann is, however, completely silent on a <u>specific</u> way of subdividing data layers. Particularly, Hutzelmann does not disclose that the data layer includes bits of a certain order of quantized spectral values and does not disclose that this scaling layer is to be subdivided into sub-scaling layers, which have bits of one and the same certain order, but from different quantized binary spectral values.

Hutzelmann is completely silent on a <u>decoder</u>-side processing of these sub-scaling layers. Please draw the Examiner's attention to the second half of page 14, where it is outlined that a data layer is removed. However, regarding the sub-scaling layers, this reference is silent on what can be done with such a sub-scaling layer at the decoder.

Thus, the Examiner is not correct in implying that Hutzelmann discloses processing of the first sub-scaling layer and the second sub-scaling layer. Again, even when one would combine AAPA and Hutzelmann, one would not derive any specific hint directed to the specific and clearly defined construction of the sub-scaling layers.

Should the Examiner deem it necessary, he is encouraged to contact Applicant's attorney, Michael A. Glenn at (650) 474-8400.

Respectfully submitted,

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